

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:08CR3146
)	
v.)	
)	
ROBERT MARKS,)	MEMORANDUM AND ORDER
)	
Defendant.)	
)	

The defendant is charged with violating 18 U.S.C. § 2252(a)(2) by knowingly receiving through interstate commerce visual depictions of child pornography. (Filing No. [1](#)). The court entered an order imposing electronic monitoring and a curfew as conditions of defendant's release pending trial. (Filing No. [15](#)). The defendant has moved to remove these conditions, arguing that to the extent the Adam Walsh Amendments to the Bail Reform Act mandate electronic monitoring and imposition of a curfew whenever the defendant is charged under 18 U.S.C. § 2252(a)(2), the Adam Walsh Amendments are unconstitutional. (Filing No. [27](#)).

Magistrate Judge Piester entered an order staying the defendant's motion to remove conditions of release pending my rulings on the appeals filed in United States v. Merritt, 4:09cr3009 and United States v. Rueb, 4:09cr3006, both of which likewise challenged the constitutionality of the home confinement and electronic monitoring provisions of the Adam Walsh Amendments. (Filing No. [31](#)). Those rulings have now been entered. See, United States v. Rueb, 4:09cr3006, filing no. 38, and United States v. Merritt, 4:09cr3009, filing no. 42.

Accordingly,

IT IS ORDERED that on or before June 24, 2009, the parties shall either file a joint stipulation, or their separate briefs outlining their respective positions, on defendant's motion to remove conditions of release in light my rulings in [United States v. Rueb, 4:09cr3006, filing no. 38](#), and [United States v. Merritt, 4:09cr3009, filing no. 42](#).

DATED this 17th day of June, 2009.

BY THE COURT:

s/Richard G. Kopf
United States District Judge